BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE
IN THE MATTER OF:

Directing the City's Representative on The Central Contra Costa Solid Waste Authority Board to Commit the City to Joining a Regional Agency	))))	RESOLUTION NO. 2008-54

WHEREAS, the City is a member of the Central Contra Costa Solid Waste Authority (CCCSWA); and

WHEREAS, the CCCSWA plans to form a regional agency pursuant to Public Resources Code sections 40970-40975 in order to facilitate AB 939 reporting and SRRE implementation; and

WHEREAS, the creation of a regional agency allows the agency to report its members' disposal and diversion quantities together in a single report, and thus reduces the time and expense of creating multiple reports; and

WHEREAS, the fact that all CCSWA member agencies use the same solid waste franchisee makes the creation of a single disposal and diversion report logical and relatively easy; and

WHEREAS, the creation of a regional agency may also facilitate the implementation of other shared programs in the future, and may have additional benefits the precise details of which are unknown at this time; and

WHEREAS, the California Integrated Waste Management Board favors the creation of regional agencies; and

WHEREAS, the California Integrated Waste Management Board has advised that in order to form the regional agency CCCSWA should amend its Joint Exercise of Powers Agreement by a Board Vote, and that it should receive approval by each member city; and

WHEREAS, the City finds that it will be benefited by joining the regional agency; and

WHEREAS, the City wishes to join the regional agency; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of Lafayette that the City hereby seeks to become a member of the regional agency and directs its representative on the CCCSWA Board to vote in favor of the amendment to the Joint Exercise of Powers Agreement that will create the regional agency, or to otherwise commit the City to joining the regional agency.

PASSED AND ADOPTED by the City Council of the City of Lafayette at the regular meeting held on the December 8, 2008, by the following vote to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

APPROVED:

_____
, Mayor

ATTEST:

_____
Joanne Robbins, City Clerk

ADDENDUM NO. 1
REGIONAL AGENCY DESIGNATION

PREAMBLE

The CCCSWA will save time and money by reporting disposal and diversion quantities to the CIWMB as a single regional agency, instead of as multiple independent agencies. There may also be other activities the CCCSWA can undertake on behalf of multiple members at once, such as administering Source Reduction and Recycling Elements (SRREs), that will increase efficiency. Therefore, it is the intent of the Central Contra Costa Solid Waste Authority ("CCCSWA") to formally undertake the responsibilities for reporting and implementing SRREs as required of its members by AB 939. As CCCSWA is an existing and operating joint powers agency pursuant to Government Code Sections 6500 *et seq.*, CCCSWA intends by amending its existing joint powers agreement (Third Amended Joint Exercise of Powers Agreement, dated July 22, 1999) through adoption of this Addendum, to obtain regional agency designation from the CIWMB and to perform the activities of a regional agency for those CCCSWA members seeking to participate, without the need for creation of a new, separate legal entity. CCCSWA members who wish to participate in the regional agency activities are designated in this document as "participating members."

1. **Purpose of Addendum**: This Addendum to the Third Amended Joint Exercise of Powers Agreement (JPA) is made for the purpose of allowing CCCSWA to jointly report disposal and diversion quantities pursuant to California Public Resources Code ("PRC") Sections 40970 through 40975. These statutory provisions allow cities and counties to form "regional agencies" to implement PRC Division 30, Part 2 Integrated Waste Management Plans, to reduce the cost of reporting and tracking of disposal and diversion programs by individual cities and counties and to increase the diversion of solid waste from disposal facilities. Upon adoption of this Addendum, the CCCSWA will be able to combine disposal and diversion quantities of all the participating members for determining compliance with AB 939. The purposes of reporting as a regional agency are in harmony with the purposes of the CCCSWA as described in Article 1.B. of the JPA and shall be included therein.

2. **Members, Name and Address**: The initial participating members are the cities and towns of Danville, Lafayette, Moraga, Orinda and Walnut Creek. (PRC § 40975(b)(1).) Any city or town that later joins the CCCSWA may elect to become a participating member as well. Membership in the CCCSWA does not require a city or town to be a participating member.

Contra Costa County is a member of CCCSWA. Contra Costa County must report for the entire county-wide area for AB 939 purposes. Portions of the unincorporated County area are within the jurisdictional boundaries of CCCSWA and others are not. For these reasons Contra Costa County will not be a participating member at this time.

When it receives regional agency designation, the joint powers agency will keep its same name, that is, the Central Contra Costa Solid Waste Authority, or CCCSWA. The administrative offices are currently located at 1111 Civic Drive, Suite 275, Walnut Creek, CA 94596.

3. **Allocation of Expenses**: The CCCSWA does not anticipate that there will be any additional expenses associated with regional agency designation, as the CCCSWA currently provides similar services on a member by member basis. Should regional agency activities incur any additional expenses not providing benefit to all CCCSWA members, the participating members will share the costs equitably. The CCCSWA shall develop a method for fairly allocating any expenses involved in administering regional agency activities. Such activities may be treated as a project subject to Article 4, Section C of the JPA. Any activity that requires a special or otherwise additional expenditure shall be listed in the budget of CCCSWA as required by Article 3, Section K of the JPA.

4. **Reporting**: The total tonnage of waste diverted from disposal, and the total tonnage of waste delivered to permitted disposal facilities for all participating members, shall be determined and reported as attributable to the region as a whole.

5. **Source Reduction, Recycling, and Composting Programs to be Implemented by the CCCSWA**: The CCCSWA will be responsible for the local adoption process for the Source Reduction and Recycling Element (SRRE) and any other planning elements for participating members. The CCCSWA also has the primary responsibility for implementation of the source reduction, recycling and composting programs detailed in the participating members' SRREs, as prepared and submitted in July 1992 and any subsequent amendments for member agencies.

6. **Duties and Responsibilities of Each Participating Member**: Each participating member will, pursuant to existing resolutions to delegate franchising authority, continue to participate in CCCSWA's joint franchise and other activities consistent with its SRRE. If a currently participating member wishes to pursue separate and independent franchising, or if a new member joins the CCCSWA and elects not to be a part of the joint franchise, then that member will be required to enter into a separate written arrangement with CCCSWA to provide sufficient authority to CCCSWA to insure compliance with its SRRE.

7. **Civil Penalties**: If a participating member fails to meet the requirements imposed by AB 939 and such failure results in the imposition by the CIWMB of civil or criminal penalties, fines, forfeitures or expenditures of any nature, and the CIWMB determines that one or more specific members are at fault, then the member(s) at fault shall pay the civil or criminal penalty, fine, forfeiture, or expenditure of any nature to the extent that such member's action caused the violation resulting in the imposition of such civil or criminal penalty, fine, forfeiture or expenditure of any kind. If the CIWMB determines that the CCCSWA as a whole is at fault, or does not determine which of its members are at fault, each participating member shall be apportioned a share of such civil or criminal penalty, fine, forfeiture, or expenditure of any kind, in direct proportion to its population, using current year population estimates from the State Department of Finance.

8. **Approval of Agreement by the CIWMB Required**: CCCSWA regional agency designation is subject to the approval of the CIWMB. (PRC § 40975(a).)

9. **Terms of Agreement and Amendments**: This Addendum will become effective on a two-thirds vote of all members of the CCCSWA Board and shall continue until amended. Pursuant to JPA Article 4, Section B, the JPA and this Addendum may be amended by a two-thirds vote of all members of the CCCSWA Board. Any such amendment shall be effective upon the date of the action.

10. **Withdrawal**: Any participating member may withdraw from participation in regional agency activities by filing a written notice with the CCCSWA. Written notice of withdrawal must be tendered by July 1 of any calendar year, and will become effective January 1 of the following calendar year. A member who has withdrawn shall have responsibility for implementing its SRRE, and shall agree to cooperate fully with the CCCSWA in implementation of then existing programs. Withdrawal from this Addendum and regional agency activities does not automatically cause withdrawal from the CCCSWA; members wishing to withdraw from the CCCSWA must comply with Article 4, Section D of the JPA.

11. **Contingency Plan**: In the event that all participating members withdraw or the CCCSWA permanently discontinues regional agency activities, the CCCSWA members shall continue to remain part of the franchise, to have responsibility for implementing the CCCSWA's SRRE until they obtain their own SRREs, and to cooperate regarding any other integrated waste management programs pursuant to the JPA.

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